

REMARKS

The examiner states that he believes that Meyers teaches tag support means, noting the upper surface of element 20 and bracket 22. Further, reel 26 is considered to be the means for moving the fastener dispensing means.

Claim 1 has been amended to require (a) that the fastener dispensing means be normally remote from the tag support means and (b) that the moving means move the needle of the fastener dispensing means from a position remote from the tag support means to a position proximate to the tag support means to cause the needle to pass through the tag and article.

This language clearly distinguishes over Meyers, even as interpreted by the examiner. In Meyers, neither the upper surface of the element 20 nor bracket 22 is normally remote from attacher 20 and the attacher is not moved relative to either of those surfaces.

Further, the claim now requires means for moving the needle relative to the tag support means. Clearly, reel 26 is not the needle of the fastener dispensing means.

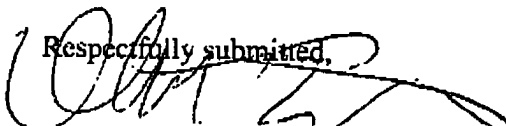
The examiner states that Block's anvil 22 is used to clamp the tag and hence that Block's anvil 22 can be considered to be the claimed clamping means. Claim 1 has been amended to require that the needle of the fastener dispensing means be moved to the position proximate the tag support means after the tag is clamped between the clamping means and the tag support means. This is clearly not true of Block's anvil 22, which is moved upwardly toward the tag before attacher 68 is moved down toward the anvil.

Accordingly, it is clear that the combination of Meyers and Block proposed by the examiner, if possible, would not meet the limitations of Claim 1 as amended, even if the claim language is interpreted as the examiner suggests.

Further, the examiner states that the combination of Meyers and Block is appropriate because both relate to the same art. While it may be true that both patents are in the same art, that reason alone is an insufficient basis to combine the references to form the basis of a rejection under 35 U.S.C. 103, when the teachings of the references are incompatible and there is no motivation to modify the teachings to obtain a workable device.

The teachings of Meyers and Block are inherently incompatible. Meyers uses a stationary tag attacher with a vacuum feed tag system that places the tag directly on the attacher needle. Block employs a moveable tag attacher with a slide feed tag system in which the tag is moved to a position aligned with, but remote from, the attacher. Since neither reference provides any motivation for making the major modifications necessary to combine these inherently incompatible teachings, in order to form a workable device, the proposed combination is inappropriate and cannot form a proper basis for a rejection under 35 USC 103.

Respectfully submitted,


Robert L. Epstein, Esq., Reg. No. 26451
EPSTEIN DRANGEL
BAZERMAN & JAMES LLP
Attorneys for Applicant
60 East 42nd Street, Suite 820
New York, New York 10165
Tel. No. (212) 292-5390
Fax. No. (212) 292-5392